

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

UNITED STATES OF AMERICA,)	
PLAINTIFF.)	
)	CASE NO. 17CR3687-DMS
)	16CR1896-DMS
)	SAN DIEGO, CALIFORNIA
DAMASO LOPEZ-SERRANO,)	WEDNESDAY, JANUARY 10, 2018
DEFENDANT.)	2:00 P.M. CALENDAR
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

CHANGE OF PLEA HEARING

COUNSEL APPEARING:
FOR PLAINTIFF:

ADAM L. BRAVERMAN,
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BY: MATTHEW JAMES SUTTON
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SAN DIEGO, CALIFORNIA 92101

FOR DEFENDANT:

MATTHEW J. LOMBARD, ESQ.
LAW OFFICES OF MATTHEW J. LOMBARD
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INTERPRETER:

SALVADOR CASTELLANOS

REPORTED BY:

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SAN DIEGO, CALIFORNIA - WEDNESDAY, JANUARY 10, 2018 2:02 P.M.

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THE CLERK: NO. 5 AND 6, 16CR1896 AND 17CR3687,
UNITED STATES OF AMERICA VERSUS DAMASO LOPEZ-SERRANO; ON FOR A
CHANGE OF PLEA HEARING.

MR. LOMBARD: GOOD MORNING -- OR GOOD AFTERNOON -- I
APOLOGIZE, YOUR HONOR. MATTHEW LOMBARD ON BEHALF OF MR.
LOPEZ-SERRANO, WHO IS COMING FROM THE BACK.

THE COURT: GOOD AFTERNOON.

MR. SUTTON: GOOD AFTERNOON, YOUR HONOR. MATTHEW
SUTTON ON BEHALF OF THE UNITED STATES.

THE COURT: GOOD AFTERNOON.

MR. LOMBARD: HE WILL BE ASSISTED BY THE SPANISH
LANGUAGE INTERPRETER.

THE COURT: THANK YOU.

GOOD AFTERNOON.

MR. LOPEZ-SERRANO IS PRESENT, BEING ASSISTED.

I HAVE A PLEA AGREEMENT, WHICH I HAVE REVIEWED.
THERE ARE TWO CASES, THE ONE FILED IN THE SOUTHERN DISTRICT
AND THE OTHER WHICH WAS FILED IN VIRGINIA AND HAS BEEN BROUGHT
OVER BY AGREEMENT OF MR. LOPEZ-SERRANO. AND I COULD USE SOME
CLARIFICATION HERE.

IN THE PLEA AGREEMENT IT SETS OUT THE TWO COUNTS IN
THE SAN DIEGO CASE, THAT IS 16CR1896. AND AT PAGE 3 OF THE
PLEA AGREEMENT IT SETS OUT THE EASTERN DISTRICT OF VIRGINIA

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1 COUNT IN 16CR0300, CONSPIRACY TO DISTRIBUTE 5 KILOGRAMS OR
2 MORE OF COCAINE UNDER SECTION 959 AND 963.

3 THAT IS SET OUT IN THE PLEA AGREEMENT. AND SO DOES
4 THE FACTUAL BASIS COVER ALL THREE COUNTS?

5 **MR. SUTTON:** IT DOES, YOUR HONOR.

6 **THE COURT:** AND THE ELEMENTS EXPLAINED COVERS ALL
7 THREE COUNTS WITH RESPECT TO THE DESCRIPTION OF CONSPIRACY TO
8 IMPORT CONTROLLED SUBSTANCES AND CONSPIRACY TO DISTRIBUTE
9 CONTROLLED SUBSTANCES INTENDED FOR IMPORTATION.

10 **MR. SUTTON:** THAT WOULD BE CORRECT, YOUR HONOR.

11 **THE COURT:** AND THEN THE PLEA, ONCE TAKEN, WOULD
12 BE -- MR. LOPEZ-NUNEZ WOULD BE ASKED TO ENTER HIS PLEA AS TO
13 THE TWO COUNTS IN CASE ENDING 1896 AND THE ONE COUNT ENDING IN
14 NUMBER 300.

15 **MR. SUTTON:** THAT IS CORRECT, YOUR HONOR.

16 **THE COURT:** ALL RIGHT.

17 **MR. LOMBARD:** YOUR HONOR, THE 300 CASE DID RECEIVE A
18 NEW CASE NUMBER BEFORE THIS COURT.

19 **THE COURT:** YES. THANK YOU FOR MENTIONING THAT.
20 THAT NEW CASE IS 17CR3687.

21 **MR. SUTTON:** THAT'S CORRECT, YOUR HONOR.

22 **THE COURT:** OKAY.

23 **MR. LOMBARD:** THE COURT DID MENTION MR. LOPEZ-NUNEZ,
24 IT IS LOPEZ-SERRANO.

25 **THE COURT:** YES, AND THE DEFENDANT BEFORE THE COURT

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1 IS LOPEZ-SERRANO. THANK YOU.

2 WE ARE READY TO PROCEED WITH THE PLEA?

3 **MR. LOMBARD:** YES, YOUR HONOR.

4 **MR. SUTTON:** YES, YOUR HONOR.

5 **THE COURT:** MADAM CLERK, WOULD YOU SWEAR THE
6 DEFENDANT?

7 **THE CLERK:** PLEASE RAISE YOUR RIGHT HAND.

8 DO YOU SOLEMNLY SWEAR OR AFFIRM THAT THE EVIDENCE
9 YOU SHALL GIVE IN THE CAUSE NOW BEFORE THE COURT SHALL BE THE
10 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

11 **DEFENDANT LOPEZ-SERRANO:** (THROUGH INTERPRETER) YES,
12 I SWEAR.

13 **THE COURT:** GOOD AFTERNOON, SIR.

14 YOU HAVE BEEN PLACED UNDER OATH. THAT MEANS IT IS
15 YOUR OBLIGATION TO TESTIFY TRUTHFULLY. IF YOU FAIL TO DO THAT
16 YOU COULD LATER BE PROSECUTED FOR PERJURY.

17 DO YOU UNDERSTAND?

18 **DEFENDANT LOPEZ-SERRANO:** YES, YOUR HONOR.

19 **THE COURT:** I HAVE BEEN HANDED THE PLEA AGREEMENT,
20 AND HAVE HAD SOME PRELIMINARY DISCUSSION WITH COUNSEL WITH
21 RESPECT TO THE SCOPE OF THE PLEA AGREEMENT ENCOMPASSING THE
22 TWO CASES; THE ONE ORIGINALLY FILED HERE IN SAN DIEGO AND THE
23 ONE FILED IN THE EASTERN DISTRICT OF VIRGINIA UNDER THAT CASE
24 NUMBER, WHICH HAS BEEN ASSIGNED A NEW CASE NUMBER HERE IN SAN
25 DIEGO UNDER 17CR3687.

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1 DO YOU UNDERSTAND?

2 **DEFENDANT LOPEZ-SERRANO:** YES.

3 **THE COURT:** AND YOU HAVE A FULL UNDERSTANDING THAT
4 THIS PLEA WILL ENCOMPASS, IF YOU STAND ON GUILTY PLEAS, PLEAS
5 TO THE THREE COUNTS SET OUT IN THE TWO RESPECTIVE CASES;
6 CORRECT?

7 **DEFENDANT LOPEZ-SERRANO:** YES.

8 **THE COURT:** IN THAT REGARD THE PLEA AGREEMENT
9 PROVIDES YOU HAVE AGREED TO WAIVE VENUE FOR PURPOSE OF THE
10 PLEA AGREEMENT WITH RESPECT TO THE EASTERN DISTRICT OF
11 VIRGINIA CASE, AND TO AGREE TO HAVE THAT MATTER ADJUDICATED
12 HERE FOR PURPOSES OF A PLEA AND ANY SENTENCE THEREON BY THIS
13 COURT IN SAN DIEGO.

14 DO YOU AGREE?

15 **DEFENDANT LOPEZ-SERRANO:** YES.

16 **THE COURT:** THERE IS ALSO A FORFEITURE ADDENDUM WITH
17 RESPECT TO A MILLION DOLLARS FORFEITURE AS A RESULT OF THE
18 PLEA AGREEMENT. AND YOU ARE PREPARED TO PROCEED WITH THAT
19 UNDERSTANDING, CORRECT?

20 **DEFENDANT LOPEZ-SERRANO:** YES.

21 **THE COURT:** HAVE YOU CONSUMED ANY MEDICATION, DRUGS,
22 OR ALCOHOL WITHIN THE PAST 72 HOURS?

23 **DEFENDANT LOPEZ-SERRANO:** NO.

24 **THE COURT:** HAS ANYONE MADE ANY THREATS TO YOU OR
25 ANYONE NEAR OR DEAR TO YOU TO INDUCE YOU TO ENTER INTO THE

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1 PLEA?

2 **DEFENDANT LOPEZ-SERRANO:** NO.

3 **THE COURT:** HAS ANYONE MADE ANY PROMISES TO YOU,
4 OTHER THAN WHAT IS CONTAINED WITHIN YOUR PLEA AGREEMENT, TO
5 INDUCE YOU TO ENTER INTO THE PLEA?

6 **DEFENDANT LOPEZ-SERRANO:** NO.

7 **THE COURT:** YOU DO UNDERSTAND THAT BY PLEADING
8 GUILTY YOU WOULD BE GIVING UP A NUMBER OF YOUR CONSTITUTIONAL
9 RIGHTS IN EACH OF THESE CASES INCLUDING: THE RIGHT TO A
10 SPEEDY AND PUBLIC JURY TRIAL; THE RIGHT TO REMAIN SILENT OR TO
11 TESTIFY AT TRIAL IF YOU DESIRED; THE RIGHT TO CONFRONT AND
12 CROSS-EXAMINE WITNESSES; AND THE RIGHT TO SUBPOENA DOCUMENTS
13 AND WITNESSES IN DEFENSE OF THESE CHARGES.

14 DO YOU UNDERSTAND AND GIVE UP EACH OF THESE RIGHTS?

15 **DEFENDANT LOPEZ-SERRANO:** YES.

16 **THE COURT:** YOU ALSO HAVE A RIGHT TO STAND ON A NOT
17 GUILTY PLEA. AND IF YOU ELECTED TO DO THAT YOUR ATTORNEY
18 WOULD HONOR YOUR DECISION AND YOU WOULD BE DEFENDED THROUGHOUT
19 ALL STAGES OF THE PROCEEDINGS IN EACH OF THESE CASES.

20 DO YOU UNDERSTAND AND GIVE UP THAT RIGHT AS WELL?

21 **DEFENDANT LOPEZ-SERRANO:** YES.

22 **THE COURT:** I AM GOING TO READ TO YOU THE FACTUAL
23 BASIS THAT IS SET OUT IN THE PLEA AGREEMENT. I WOULD ASK THAT
24 YOU LISTEN CAREFULLY, AND YOU ARE FREE TO READ ALONG WITH ME
25 ON THE PLEA AGREEMENT. THE FACTUAL BASIS SETS OUT FACTS THAT,

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1 IF TRUE, YOU WOULD BE ADMITTING PURSUANT TO THIS PLEA
2 AGREEMENT. IF YOU ADMIT THESE FACTS YOU ARE ADMITTING EACH
3 AND EVERY ELEMENT OF THE CRIMES CHARGED AGAINST YOU IN EACH OF
4 THESE CASES.

5 DO YOU UNDERSTAND?

6 **DEFENDANT LOPEZ-SERRANO:** YES.

7 **THE COURT:** AND IN DOING THAT, IF YOU ADMIT THIS
8 FACTUAL BASIS, YOU WOULD BE RELIEVING THE GOVERNMENT OF ITS
9 BURDEN OF PROOF OF PROVING BEYOND A REASONABLE DOUBT EACH AND
10 EVERY ELEMENT AS WELL AS ANY ALLEGATIONS IN EACH OF THE
11 COMPLAINTS.

12 DO YOU UNDERSTAND?

13 **DEFENDANT LOPEZ-SERRANO:** YES.

14 **THE COURT:** YOU FURTHER WOULD BE GIVING UP YOUR
15 RIGHT TO HAVE A JURY HEAR AND DECIDE THESE CASES WHERE THE
16 PRESUMPTION OF INNOCENCE CARRIES. AND OBVIOUSLY YOU WOULD BE
17 GIVING UP YOUR RIGHT TO HAVE THAT JURY TRIAL IN EXCHANGE FOR
18 THE BENEFITS OF THE PLEA AGREEMENT.

19 DO YOU UNDERSTAND?

20 **DEFENDANT LOPEZ-SERRANO:** YES.

21 **THE COURT:** THE FACTUAL BASIS IS AS FOLLOWS: THAT,
22 NO. 1, BEGINNING NO LATER THAN IN OR ABOUT 2003 AND CONTINUING
23 UNTIL AT LEAST ON OR ABOUT DECEMBER 4, 2016 YOU WERE A MEMBER
24 OF A NARCOTICS TRAFFICKING ORGANIZATION BASED IN SINALOA
25 MEXICO AND COMMONLY KNOWN TO ITS MEMBERS AND ITS ASSOCIATES

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1 AND THE PUBLIC AS THE SINALOA CARTEL.

2 NO. 2. THAT YOU ADMIT THAT YOU BECAME A LEADER
3 WITHIN THE SINALOA CARTEL AND WERE RESPONSIBLE FOR A NUMBER OF
4 ASPECTS OF THE CARTEL'S OPERATIONS; SPECIFICALLY, YOU ADMIT
5 THAT YOU ENTERED INTO AN AGREEMENT WITH OTHER MEMBERS OF THE
6 SINALOA CARTEL TO ACT AS A MAJOR COORDINATOR, ORGANIZING THE
7 TRANSPORTATION AND DISTRIBUTION OF LARGE QUANTITIES OF
8 CONTROLLED SUBSTANCES, INCLUDING METHAMPHETAMINE, COCAINE, AND
9 HEROIN, FOR IMPORTATION FROM MEXICO INTO THE UNITED STATES.

10 NO. 3. YOU ADMIT THAT AS PART OF THIS AGREEMENT YOU
11 AND YOUR CO-CONSPIRATORS COORDINATED THE DISTRIBUTION OF
12 TONNAGE QUANTITIES OF CONTROLLED SUBSTANCES FROM MEXICO FOR
13 ILLEGAL IMPORTATION INTO THE UNITED STATES, INCLUDING THE
14 SOUTHERN DISTRICT OF CALIFORNIA, ON BEHALF OF THE SINALOA
15 CARTEL. SPECIFICALLY, YOU ADMIT THAT YOU AND YOUR
16 CO-CONSPIRATORS IMPORTED TONNAGE QUANTITIES OF COCAINE FROM
17 MEXICO INTO THE UNITED STATES.

18 NO. 4. YOU ADMIT THAT MEMBERS OF THE SINALOA CARTEL
19 POSSESSED FIREARMS FOR THE PURPOSES OF PROMOTING THE SINALOA
20 CARTEL'S NARCOTICS TRAFFICKING BUSINESS. YOU ALSO ADMIT THAT
21 YOU POSSESSED A FIREARM AS A MEMBER OF THE SINALOA CARTEL IN
22 FURTHERANCE OF THE CARTEL'S NARCOTICS TRAFFICKING ACTIVITIES.

23 AND, NO. 5. YOU AGREE THAT THE PROPERTY SUBJECT TO
24 FORFEITURE, I.E. ONE MILLION DOLLARS IN UNITED STATES
25 CURRENCY, IS PROCEEDS OBTAINED DIRECTLY OR INDIRECTLY AS A

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1 RESULT OF THE FELONY OFFENSES ALLEGED IN THE INDICTMENT AND/OR
2 PROPERTY USED OR INTENDED TO BE USED IN ANY MANNER OR PART TO
3 COMMIT AND TO FACILITATE THE COMMISSION OF THE FELONY OFFENSES
4 ALLEGED IN THESE INDICTMENTS.

5 DO YOU AGREE?

6 **DEFENDANT LOPEZ-SERRANO:** YES.

7 **THE COURT:** AND YOU ADMIT THIS FACTUAL BASIS BECAUSE
8 IN TRUTH AND IN FACT YOU ARE GUILTY AS CHARGED IN EACH OF THE
9 INDICTMENTS.

10 **DEFENDANT LOPEZ-SERRANO:** YES.

11 **THE COURT:** AS WE HAVE DISCUSSED, BY ADMITTING THAT
12 FACTUAL BASIS YOU ARE ADMITTING EACH OF THE ELEMENTS OF THE
13 CRIMES CHARGED TO YOU IN THESE CASES, AND RELIEVING THE
14 GOVERNMENT OF PROVING BEYOND A REASONABLE DOUBT EACH OF THE
15 ELEMENTS.

16 DO YOU UNDERSTAND?

17 **DEFENDANT LOPEZ-SERRANO:** YES.

18 **THE COURT:** THE ELEMENTS ARE THE FOLLOWING.

19 AS TO THE CONSPIRACY TO IMPORT CONTROLLED
20 SUBSTANCES: NO. 1, THERE WAS AN AGREEMENT BETWEEN TWO OR MORE
21 PERSONS TO IMPORT CONTROLLED SUBSTANCES INTO THE UNITED STATES
22 FROM A PLACE OUTSIDE THEREOF; NO. 2, THAT YOU BECAME A MEMBER
23 OF THE CONSPIRACY KNOWING OF AT LEAST ONE OF ITS OBJECTS AND
24 INTENDING TO HELP ACCOMPLISH IT; AND, NO. 3, THE OFFENSE
25 INVOLVED AN AGREEMENT TO IMPORT OVER 500 GRAMS AND MORE OF A

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1 MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF
2 METHAMPHETAMINE, 5 KILOGRAMS AND MORE OF A MIXTURE AND
3 SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF COCAINE, AND 1
4 KILOGRAM OR MORE OF A MIXTURE AND SUBSTANCE CONTAINING A
5 DETECTABLE AMOUNT OF HEROIN.

6 THE ELEMENTS WITH RESPECT TO CONSPIRACY TO
7 DISTRIBUTE CONTROLLED SUBSTANCES INTENDED FOR IMPORTATION ARE
8 THESE: NO. 1, THERE WAS AN AGREEMENT BETWEEN TWO OR MORE
9 PERSONS TO DISTRIBUTE CONTROLLED SUBSTANCES OUTSIDE OF THE
10 UNITED STATES WITH THE INTENT THAT THE CONTROLLED SUBSTANCES
11 BE UNLAWFULLY BROUGHT INTO THE UNITED STATES; NO. 2, THAT YOU
12 BECAME A MEMBER OF THE CONSPIRACY KNOWING OF ITS OBJECTS AND
13 INTENDING TO HELP ACCOMPLISH IT; AND, NO. 3, THE OFFENSE
14 INVOLVED AN AGREEMENT TO IMPORT OVER 500 GRAMS AND MORE OF A
15 MIXTURE AND SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF
16 METHAMPHETAMINE, 5 KILOGRAMS AND MORE OF A MIXTURE AND
17 SUBSTANCE CONTAINING A DETECTABLE AMOUNT OF COCAINE, AND 1
18 KILOGRAM AND MORE OF A MIXTURE AND SUBSTANCE CONTAINING A
19 DETECTABLE AMOUNT OF HEROIN.

20 DO YOU UNDERSTAND EACH OF THE ELEMENTS OF THE
21 OFFENSES CHARGED?

22 **DEFENDANT LOPEZ-SERRANO:** YES.

23 **THE COURT:** AS TO THE FORFEITURE, YOU UNDERSTAND
24 THAT THE UNITED STATES WOULD HAVE TO PROVE BY A PREPONDERANCE
25 OF THE EVIDENCE THAT THE PROPERTY IT SEEKS TO FORFEIT

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1 CONSTITUTES OR IS DERIVED FROM PROCEEDS OF THE OFFENSE OR WAS
2 PROPERTY USED OR INTENDED TO BE USED TO FACILITATE THE
3 OFFENSE.

4 DO YOU UNDERSTAND?

5 **DEFENDANT LOPEZ-SERRANO:** YES.

6 **THE COURT:** THE MAXIMUM PUNISHMENT FOR THESE
7 OFFENSES IS A MANDATORY MINIMUM SENTENCE AT TEN YEARS IN
8 PRISON, WITH A MAXIMUM OF LIFE IN PRISON; A \$10 MILLION FINE;
9 A MANDATORY SPECIAL ASSESSMENT OF \$100 PER COUNT; A TERM OF
10 SUPERVISED RELEASE OF AT LEAST FIVE YEARS AND UP TO LIFE, WITH
11 A RETURN TO PRISON FOR THE PERIOD OF TIME THAT SUPERVISED
12 RELEASE IS IMPOSED IF YOU VIOLATE ANY OF THE TERMS AND
13 CONDITIONS OF YOUR SUPERVISED RELEASE; FORFEITURE OF ALL
14 PROPERTY CONSTITUTING OR DERIVED FROM PROCEEDS OBTAINED AS A
15 RESULT OF THE VIOLATION, OF ALL PROPERTY USED OR INTENDED TO
16 BE USED TO COMMIT OR TO FACILITATE THE COMMISSION OF THE
17 VIOLATION; AND INELIGIBILITY FOR CERTAIN FEDERAL BENEFITS.

18 DO YOU UNDERSTAND?

19 **DEFENDANT LOPEZ-SERRANO:** YES.

20 **THE COURT:** AND MR. LOPEZ-SERRANO IS NOT A UNITED
21 STATES CITIZEN; AM I CORRECT?

22 **MR. LOMBARD:** THAT'S CORRECT, YOUR HONOR.

23 **THE COURT:** AND YOU HAVE GONE OVER THE IMMIGRATION
24 CONSEQUENCES, HAVE YOU NOT?

25 **MR. LOMBARD:** THAT IS CORRECT, YOUR HONOR.

1 **THE COURT:** AND JUST SO THE RECORD IS CLEAR, YOU
2 HAVE FULLY ADDRESSED THE IMMIGRATION CONSEQUENCES WITH YOUR
3 CLIENT?

4 **MR. LOMBARD:** THAT IS CORRECT. I HAVE GONE OVER THE
5 IMMIGRATION CONSEQUENCES OF PLEADING GUILTY TO A FELONY DRUG
6 OFFENSE IN THE UNITED STATES AND NOT BEING A U.S. CITIZEN.

7 **THE COURT:** ALL RIGHT. AND AS SET OUT IN THE PLEA
8 AGREEMENT, BECAUSE YOU ARE NOT A CITIZEN OF THE UNITED STATES
9 THIS GUILTY PLEA, IN EACH OF THESE CASES OR ANY ONE OF THEM,
10 MAKE IT PRACTICALLY INEVITABLE AND A VIRTUAL CERTAINTY THAT
11 YOU WILL BE REMOVED OR DEPORTED FROM THE UNITED STATES.

12 DO YOU UNDERSTAND?

13 **DEFENDANT LOPEZ-SERRANO:** YES.

14 **THE COURT:** THE PLEA AGREEMENT FURTHER PROVIDES THAT
15 YOU WOULD BE FREE TO ASK FOR ADJUSTMENTS OR DEPARTURES UNDER
16 THE ADVISORY GUIDELINES AS WELL AS VARIANCES UNDER THE
17 RELEVANT SENTENCING FACTORS UNDER 18 USC SECTION 3553.

18 DO YOU UNDERSTAND?

19 **DEFENDANT LOPEZ-SERRANO:** YES.

20 **THE COURT:** THE COURT HAS AN OBLIGATION TO IMPOSE A
21 JUST AND FAIR SENTENCE, WHICH IS SUFFICIENT BUT NOT GREATER
22 THAN NECESSARY TO ADDRESS THE SENTENCING FACTORS BEFORE THE
23 COURT. THE SENTENCING LAW REQUIRES THAT THE COURT CONSULT THE
24 ADVISORY UNITED STATES GUIDELINES AS WELL AS THE RELEVANT
25 SENTENCING FACTORS UNDER 18 UNITED STATES CODE SECTION 3553.

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1 IN FULFILLING THAT OBLIGATION, AS INDICATED, THE
2 COURT HAS A DUTY AND AN OBLIGATION TO IMPOSE A SENTENCE IN ITS
3 DISCRETION THAT IT BELIEVES IS JUST AND FAIR, SUFFICIENT BUT
4 NOT GREATER THAN NECESSARY TO MEET THESE SENTENCING CRITERIA.

5 DO YOU UNDERSTAND?

6 **DEFENDANT LOPEZ-SERRANO:** YES.

7 **THE COURT:** THE COURT IS NOT BOUND BY THE PLEA
8 AGREEMENT. SO, IN OTHER WORDS, THE COURT IS FREE TO IMPOSE A
9 SENTENCE UP TO LIFE.

10 DO YOU UNDERSTAND?

11 **DEFENDANT LOPEZ-SERRANO:** YES.

12 **THE COURT:** YOU ARE FREE, AS INDICATED, TO ARGUE FOR
13 ADJUSTMENTS, DEPARTURES, AND VARIANCES; THE GOVERNMENT IS FREE
14 TO OPPOSE THOSE. AND THEN THE COURT IS CHARGED WITH THE
15 RESPONSIBILITY OF MAKING A SENTENCING DETERMINATION BASED ON
16 ALL OF THE EVIDENCE BEFORE THE COURT AND ARGUMENTS OF COUNSEL,
17 AS WELL AS HEARING FROM YOU.

18 DO YOU UNDERSTAND?

19 **DEFENDANT LOPEZ-SERRANO:** YES.

20 **THE COURT:** IN IMPOSING THE SENTENCE, NO MATTER WHAT
21 SENTENCE IS IMPOSED YOU WOULD NOT HAVE A RIGHT TO WITHDRAW
22 YOUR GUILTY PLEAS.

23 DO YOU UNDERSTAND?

24 **DEFENDANT LOPEZ-SERRANO:** YES.

25 **THE COURT:** FURTHER, NO MATTER WHAT SENTENCE IS

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1 IMPOSED, EVEN UP TO A LIFE SENTENCE, YOU WOULD NOT HAVE A
2 RIGHT TO APPEAL OR TO LATER COLLATERALLY ATTACK THE SENTENCE
3 AND JUDGMENT.

4 DO YOU UNDERSTAND?

5 **DEFENDANT LOPEZ-SERRANO:** YES.

6 **THE COURT:** SO THIS PLEA AGREEMENT CONTEMPLATES A
7 FULL APPELLATE WAIVER, THE INABILITY TO APPEAL OR TO LATER
8 COLLATERALLY ATTACK THE SENTENCE AND JUDGMENT EXCEPT FOR ON
9 THE SOLE GROUNDS OF INEFFECTIVE ASSISTANCE OF COUNSEL.

10 DO YOU UNDERSTAND?

11 **DEFENDANT LOPEZ-SERRANO:** YES.

12 **THE COURT:** COUNSEL, YOU HAVE HAD A FULL OPPORTUNITY
13 TO DISCUSS THE PLEA AGREEMENT WITH YOUR CLIENT, THE ADDENDA
14 BEFORE THE COURT; AM I CORRECT?

15 **MR. LOMBARD:** YES, YOUR HONOR.

16 **THE COURT:** ARE YOU AWARE OF ANY DEFENSES THAT
17 MR. LOPEZ-SERRANO MAY BE GIVING UP, OR ANY VIOLATION OF HIS
18 CONSTITUTIONAL RIGHTS?

19 **MR. LOMBARD:** NO, YOUR HONOR.

20 **THE COURT:** YOU DO JOIN IN THE PLEA?

21 **MR. LOMBARD:** I DO JOIN IN THE PLEA.

22 **THE COURT:** MR. LOPEZ-SERRANO, YOU HAVE HAD A FULL
23 OPPORTUNITY TO GO OVER THE PLEA AGREEMENT, THE ADDENDA BEFORE
24 THE COURT WITH YOUR ATTORNEY; AM I CORRECT?

25 **DEFENDANT LOPEZ-SERRANO:** YES.

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1 **THE COURT:** WERE ALL OF THE QUESTIONS YOU ASKED OF
2 YOUR ATTORNEY CONCERNING THE PLEA AGREEMENT ANSWERED TO YOUR
3 SATISFACTION?

4 **DEFENDANT LOPEZ-SERRANO:** YES.

5 **THE COURT:** DO YOU HAVE ANY QUESTIONS OF THE COURT
6 AT THIS TIME CONCERNING THE PLEA AGREEMENT?

7 **DEFENDANT LOPEZ-SERRANO:** NO.

8 **THE COURT:** THE GOVERNMENT IS SATISFIED?

9 **MR. SUTTON:** YES, YOUR HONOR.

10 **THE COURT:** ALL RIGHT.

11 SO, MR. LOPEZ-SERRANO, I AM GOING TO START WITH CASE
12 16CR1896. THAT IS THE CASE THAT WAS FILED HERE IN THIS
13 DISTRICT. THERE ARE TWO COUNTS IN THE INDICTMENT, COUNTS 1
14 AND 2, THAT WE HAVE GONE OVER IN THE PLEA AGREEMENT. AND I AM
15 GOING TO ASK YOU HOW YOU PLEAD TO THESE TWO COUNTS UNDER
16 TITLE -- WELL, THE FIRST IS CONSPIRACY TO DISTRIBUTE
17 METHAMPHETAMINE, COCAINE, AND HEROIN INTENDED FOR IMPORTATION
18 UNDER TITLE 21, UNITED STATES CODE, SECTIONS 952, 960 AND 963.
19 THE SECOND COUNT IS CONSPIRACY TO IMPORT METHAMPHETAMINE,
20 COCAINE, AND HEROIN UNDER TITLE 18, UNITED STATES CODE,
21 SECTIONS 1952, 1960, AND 1963. HOW DO YOU PLEAD TO THOSE TWO
22 COUNTS: GUILTY OR NOT GUILTY?

23 **DEFENDANT LOPEZ-SERRANO:** GUILTY.

24 **THE COURT:** THE CASE FILED IN THE EASTERN DISTRICT
25 OF VIRGINIA, 16CR0300, NOW ASSIGNED CASE NO. 17CR3687 IN THIS

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1 COURT, HAS ONE COUNT, CONSPIRACY TO DISTRIBUTE 5 KILOGRAMS OR
2 MORE OF COCAINE INTENDING AND KNOWING IT WILL BE UNLAWFULLY
3 IMPORTED INTO THE UNITED STATES, UNDER 21, UNITED STATES CODE,
4 SECTIONS 959 AND 963. HOW DO YOU PLEAD: GUILTY OR NOT
5 GUILTY?

6 **DEFENDANT LOPEZ-SERRANO:** GUILTY.

7 **THE COURT:** THE PLEAS ARE ACCEPTED. I DO FIND THAT
8 MR. LOPEZ-SERRANO HAS FREELY, VOLUNTARILY, AND COMPETENTLY
9 ENTERED INTO THE PLEAS. THERE IS A FACTUAL BASIS FOR EACH
10 COUNT IN EACH OF THE CASES. MR. LOPEZ-SERRANO HAS VOLUNTARILY
11 AND COMPETENTLY ENTERED INTO THE PLEAS, AND HAS FREELY AND
12 VOLUNTARILY WAIVED ALL OF HIS RIGHTS.

13 WITH RESPECT TO SENTENCING, WHAT WOULD BE THE
14 PARTIES' REQUEST?

15 **MR. LOMBARD:** YOUR HONOR, WE WOULD RATHER PUT IT OFF
16 FOR SOME TIME. I AM NOT SURE WE ANTICIPATE -- IT WON'T BE FOR
17 SEVERAL MONTHS. IF THE COURT WANTS TO SET A DATE OUT THREE OR
18 FOUR MONTHS AND CONTINUE TO CHECK IN WITH US, OR WOULD THE
19 COURT FEEL COMFORTABLE SETTING A DATE, SAY, SIX MONTHS FROM
20 TODAY?

21 **MR. SUTTON:** EITHER OPTION, WHATEVER THE COURT'S
22 PREFERENCE IS. I ANTICIPATE WE WILL NEED SOME PERIOD OF TIME
23 BEFORE WE PROCEED TO SENTENCING.

24 **THE COURT:** WHAT WOULD BE THE -- DO YOU HAVE ANY
25 BENCHMARK AS FAR AS THE TIMING?

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1 **MR. SUTTON:** I THINK PERHAPS IF WE SET A DATE SIX
2 MONTHS OUT FROM TODAY, AND THEN WE CAN CHECK IN WITH THE
3 COURT. I THINK THAT WILL GIVE US A GOOD HEAD START.

4 **THE COURT:** SO THE SIX MONTH DATE, DO YOU --

5 **MR. LOMBARD:** WE DO NOT ANTICIPATE GOING FORWARD
6 WITH SENTENCING IN SIX MONTHS, YOUR HONOR.

7 **THE COURT:** SO MORE OF A STATUS IN SIX MONTHS?

8 **MR. SUTTON:** LIKE A STATUS, YOUR HONOR. THEN WE CAN
9 ALERT THE COURT OF WHERE WE ARE AND WHAT THE TIME ESTIMATE
10 WOULD BE AT THAT POINT.

11 **THE COURT:** ALL RIGHT.

12 WHAT WOULD THAT DATE BE?

13 **THE CLERK:** FRIDAY, JULY 13. OR DO YOU WANT AN OFF
14 DAY?

15 **THE COURT:** FRIDAY?

16 **THE CLERK:** JULY 13.

17 **THE COURT:** WHY DON'T WE SET IT ON AN OFF DATE,
18 PERHAPS A THURSDAY.

19 **THE CLERK:** THURSDAY, JULY 12.

20 **THE COURT:** AT WHAT TIME?

21 **THE CLERK:** 10:30.

22 **THE COURT:** 10:30. SO THURSDAY, JULY 12, 10:30.

23 **MR. SUTTON:** YES, YOUR HONOR.

24 **MR. LOMBARD:** YES, YOUR HONOR.

25 **THE COURT:** SIR, YOU DO HAVE A RIGHT TO BE SENTENCED

1 IN DUE COURSE, AND SO IF YOU DID NOT WAIVE TIME WE WOULD SET
2 IT FOR A PRESENTENCE REPORT AND SENTENCING IN DUE COURSE.

3 YOU ARE OBVIOUSLY INDICATING THAT YOU WOULD LIKE TO
4 WAIVE THAT RIGHT AND BE SENTENCED AT A LATER TIME; AM I
5 CORRECT?

6 **DEFENDANT LOPEZ-SERRANO:** YES.

7 **THE COURT:** ALL RIGHT.

8 HAVE WE ADDRESSED ALL MATTERS?

9 **MR. SUTTON:** YES. THANK YOU, YOUR HONOR.

10 **THE COURT:** THANK YOU.

11 **MR. LOMBARD:** THANK YOU.

12
13 * * *

14 I CERTIFY THAT THE FOREGOING IS A CORRECT
15 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS
IN THE ABOVE-ENTITLED MATTER.

16 S/LEEANN PENCE 4/27/2018
17 LEEANN PENCE, OFFICIAL COURT REPORTER DATE
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JANUARY 10, 2018